

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE:

MILLENIUM MULTIPLE EMPLOYER  
BENEFIT PLAN,

CASE NO. 10-13528-WV  
(CHAPTER 11)

*Debtor.*

---

CLAUDE YOUNG, *et al.*,

*Plaintiffs,*

v.

ADVERSARY CASE NO. 10-01176

THE MILLENIUM MULTIPLE  
EMPLOYER BENEFIT PLAN, *et al.*,

*Defendants.*

---

FRED WESTFALL, *et al.*,

*Plaintiffs,*

v.

ADVERSARY CASE NO. 10-01175

THE MILLENIUM MULTIPLE  
EMPLOYER BENEFIT PLAN, *et al.*,

*Defendants.*

**DEFENDANT TIMOTHY O'ROURKE'S  
MOTION FOR SUMMARY JUDGMENT AND SUPPORTING BRIEF**

To the Honorable T.M. Weaver, U.S. Bankruptcy Judge:

Timothy O'Rourke ("O'Rourke"), a Defendant in the *Young and Westfall* adversary proceedings, respectfully moves for summary judgment as to all claims asserted against him by the Plaintiffs in the *Young and Westfall* adversary proceedings.

### **I. Background**

O'Rourke is a small business owner who, together with his wife, operates an I.T. consulting company called ICON Information Consultants, L.P. ("ICON"). See O'Rourke Decl. ¶ 2. In around 2001, O'Rourke learned about the Millennium Multiple Employer Welfare Benefit Plan (the "Plan") from ICON's accountant. See *id.* ¶ 3. After learning more about the Plan, O'Rourke and his wife decided that ICON should participate in it. See *id.* ¶ 4. ICON invested in the Plan for the benefit of O'Rourke and his wife. See *id.* Thus, ICON is a Covered Employer and O'Rourke and his wife are Eligible Employees or Plan participants. See *id.*

In approximately 2004, Kathy Barrow of the Millennium Marketing Group contacted O'Rourke. See O'Rourke Decl. ¶ 5. Ms. Barrow informed O'Rourke that a Plan Committee was being put together and she invited O'Rourke to be part of the Plan Committee. See *id.* O'Rourke accepted the invitation and has been a Plan Committee member since then. See *id.*

O'Rourke has unfortunately found himself tangled in the litigation surrounding the Plan. He has been named as a defendant in the *Westfall* and

*Young* cases. See O'Rourke Decl. ¶ 6; *Young* Pls.' 9th Am. Pet.; *Westfall* Pls. 8th Am. Pet.

The plaintiffs in the *Young* and *Westfall* adversary proceedings (collectively referred to as the "Plaintiffs") claim that their participation in the Plan was induced by fraud and misrepresentation. See 2-18-2011 Order [Dkt. # 937] at 5; *Young* Pls.' 9th Am. Pet. ¶¶ 6.02-6.15, at 108-112; *Westfall* Pls.' 8th Am. Pet. ¶ 4.01, at 13. The Plaintiffs specifically claim that the Plan was misrepresented to them as being one that qualified under section 419A(f)(6) as a ten or more Employer Welfare Benefit Plan, which would have resulted in their contributions to the Plan being tax-deductible. See 2-18-2011 Order [Dkt. # 937]; *Young* Pls.' 9th Am. Pet. ¶ 6.03-6.04, at 109-09; *Westfall* Pls.' 8th Am. Pet. ¶ 5.04, at 14. They claim that the Plan does not so qualify, and that the Plan was merely a scheme to sell insurance. See *Young* Pls.' 9th Am. Pet. ¶¶ 4.01, at 20-21, 4.02, at 21; *Westfall* Pls.' 8th Am. Pet. ¶ 5.04, at 14.

The Plaintiffs have asserted various claims pertaining to the alleged fraud and misrepresentation.<sup>1</sup> The Plaintiffs have also asserted a breach of fiduciary duty claim against O'Rourke. See *Young* Pls.' 9th Am. Pet. ¶¶ 6.29-6.32, at 115; *Westfall* Pls.' 8th Am. Pet. ¶¶ 6.29-6.32, at 52. Lastly, the Plaintiffs have asserted claims for constructive trust, unjust enrichment, and money had and received, in

---

<sup>1</sup> The Plaintiffs have asserted the following causes of action which relate to the fraud and misrepresentation theories: (1) fraud; (2) negligent misrepresentation; (3) fraudulent inducement; and (4) violations of Article 541.151 of Texas Insurance Code and the Texas Deceptive Trade Practices Act. See *Young* Pls.' 9th Am. Pet., at 108-16; *Westfall* Pls.' 8th Am. Pet., at 45-52.

which the Plaintiffs claim that O'Rourke possesses money which belongs to the Plaintiffs. See *Young* Pls.' 9th Am. Pet. ¶¶ 6.16-6.18, at 112, 6.32-6.33, at 115-16; *Westfall* Pls.' 8th Am. Pet. ¶¶ 6.16-6.18, at 49, 6.32-6.33, at 52-53.

O'Rourke seeks summary judgment on all claims being made against him in the *Young* and *Westfall* adversary proceedings.

## **II. Summary of the Argument**

O'Rourke is entitled to summary judgment on all claims made against him. Plaintiffs simply added O'Rourke and the other Plan Committee members to their State court petitions in the *Young* and *Westfall* matters for reasons unrelated to the merits of any claims, making little or no attempt to distinguish any cause of action against the Plan Committee from the pending causes of action against all other defendants. The result is a myriad of pending claims which are completely baseless causes of action against O'Rourke.

With regard to the claims related to fraud and misrepresentation, O'Rourke did not play any role in the marketing, sale, or promotion of the Plan to any Covered Employers or Eligible Employees. He has never induced anyone to sign up or participate in the Plan.

As to the constructive trust, unjust enrichment, and money had and received claims, O'Rourke is not in possession of, is not holding, and has never received any funds belonging to any of the Plaintiffs.

Lastly, the Plaintiff's breach of fiduciary duty claim is preempted by ERISA.

### **III. Analysis**

#### **A. Claims based on alleged fraud and misrepresentation**

The Plaintiffs claim that their participating in the Plan was induced by fraud and misrepresentation. Even if this is true, O'Rourke played no part in any of this.

O'Rourke has never participated in the sale, marketing, or promotion of the Plan to any Covered Employers or Eligible Employees. O'Rourke Decl. ¶ 7. He has never induced anyone to sign up or participate in the Plan, nor has he ever discussed the Plan with anyone who has then entered the Plan. *Id.* ¶ 8. At no point has O'Rourke made any representations to any prospective Plan Participants or Covered Employers regarding the tax status of contributions, whether the Plan qualified as a 419(A) plan, or the possibility of recovering contributions made to the Plan. *Id.* ¶ 8.

There is simply no evidence that O'Rourke committed any fraud or made any misrepresentations to any of the Plaintiffs. In none of the Plaintiffs' depositions did anyone claim any fraud or misrepresentation on the part of O'Rourke. Not one of the Plaintiffs deposed had ever spoken with O'Rourke and several had never even heard of him.<sup>2</sup> Additionally, to the extent that the

---

<sup>2</sup> See, e.g., Cynthia Baldouf Tr. at 130:20 – 130:25 (has never spoken with O'Rourke); Joan Evans Tr. at 151:5 – 151:6 (does not know who O'Rourke is); Jennifer Fleshner Tr. at 91:4 – 91:5 (has never spoken with O'Rourke); Michael Goldberg Tr. at 198:7 – 198:11; Patricia Gonzales Tr.

Plaintiffs had intended to rely upon their conspiracy theory to impute alleged acts of fraud and/or misrepresentation committed by others to O'Rourke, summary judgment is still warranted because the Plaintiffs are dismissing their conspiracy claim. See Dkt. # 32 in the *Young* action; Dkt. # 54 in the *Westfall* action.

**B. Claims for constructive trust, unjust enrichment, and money had and received**

O'Rourke does not possess or hold, nor has he ever received, any funds belonging to any other Covered Employer or Eligible Employee, including any of the Plaintiffs. See O'Rourke Decl. ¶ 9. To the contrary, O'Rourke volunteered to be on the Plan Committee, a position which paid him nothing, despite his hours of time spent. Proving the adage "no good deed goes unpunished," O'Rourke's agreement to serve on the Plan Committee resulted in him being sued personally and having to defend himself with his own money. O'Rourke is entitled to summary judgment on the Plaintiffs' constructive trust, unjust enrichment, and money wrongfully had and received claims.

**C. State law breach of fiduciary duty claim**

The Plaintiffs claim that O'Rourke and the other Plan Committee members owed a fiduciary duty to the Plaintiffs by virtue of their position as Plan Committee members. See *Young* Pls.' 9th Am. Pet. ¶ 5.48, at 49-51; *Westfall*

---

at 121:25 – 122:4 (does not know O'Rourke and has never spoken with O'Rourke); Timothy Johnston Tr. at 179:20 – 179:25 (has never heard of O'Rourke and has never spoken with O'Rourke).

Pls.' 8th Am. Pet. ¶ 5.26, at 26-28. The Plaintiffs claim that O'Rourke breached his fiduciary duty by allegedly doing the following:

1. concealing the negative IRS letter ruling issued in October 2007;
2. issuing false and misleading statements about the character, operation, and tax attributes of the Plan;
3. using \$3.8 Million of a "\$5 Million wasting liability policy" on litigation to protect the Plan Committee members' personal interests;
4. misappropriating and wasting the Plan's legal defense fund;
5. negligently supervising Jonathan Cocks (the Plan Committee chairman);
6. authorizing the forfeiture of the participation in the Plan of some of the Plaintiffs;
7. utilizing Plan funds for Jonathan Cocks' salary and other "useless expenses;"
8. refusing to refund participants' money without adequately investigating whether such a refund was required;
9. blindly following the advice of counsel; and
10. allowing Plan assets to be used for unauthorized expenses.

See *Young* Pls.' 9th Am. Pet. ¶ 5.48, at 49-51; *Westfall* Pls.' 8th Am. Pet. ¶ 5.26, at 26-28. O'Rourke is entitled to summary judgment on the Plaintiffs' state law breach of fiduciary duty claim because it is preempted by ERISA.

1. The Plan is an ERISA plan.

The Court has previously determined that the Plan is an ERISA plan. See 2-18-2011 Order (Dkt. # 937 in Case No. 10-13528-WV), at 2-3 (observing that the "assets of the Plan are held in Trust, a requirement of ERISA[,] and that "[b]enefits for non-owner [Plan] participants are protected by ERISA); 3-10-2011 Order (Dkt. # 977 in Case No. 10-13528-WV), at 2 (noting that Plan complied with ERISA's requirement that the legal title to assets of a plan such as this be held in trust). This is entirely consistent with the Plan's intent, as evidenced in the

Plan Document, to operate as an employee welfare benefit plan, as defined by ERISA. See Plan Document (excerpt) ¶ 1.

2. ERISA Preemption: Applicable Law

“ERISA’s express conflict preemption provision states, ‘[ERISA] shall supersede any and all State laws insofar as they may now or hereafter relate to any [ERISA] plan.’” *David P. Coldesina, D.D.S., P.C., Empl. Profit Sharing Plan & Trust v. Estate of Simper*, 407 F.3d 1126, 1136 (10th Cir. 2005) (quoting 29 U.S.C. § 1144(a)). The Tenth Circuit has recognized four categories of state laws that are preempted by ERISA. *Id.* (citing *Woodworker’s Supply, Inc. v. Principal Mut. Life Ins. Co.*, 170 F.3d 985, 990 (10th Cir. 1999)). The category of interest here is “laws and common-law rules providing remedies for misconduct growing out of the administration of [ERISA] plans.” *Id.* Generally, state law claims that affect the relations among the principal ERISA entities, the employer, the plan, the plan fiduciaries and the beneficiaries are preempted by ERISA. See *id.*

3. The Plaintiffs’ breach of fiduciary duty claim is preempted by ERISA.

As noted earlier, the Plaintiffs’ breach of fiduciary duty claim arises solely out of O’Rourke’s role as a Plan Committee member and related to things that O’Rourke allegedly did or failed to do while on the Plan Committee. In other words, with regard to their state law breach of fiduciary duty claim, the Plaintiffs’ complaint lies with the administration of the Plan. The claim falls squarely within



ERISA's conflict preemption provision. See 29 U.S.C. § 1144(a). Accordingly, it is should be dismissed.

#### **IV. Conclusion and Prayer**

Summary judgment should be granted on all claims being made against O'Rourke.

The Plaintiffs claims related to fraud and misrepresentation should be dismissed because O'Rourke did not play any role in the sale, promotion, or marketing of the Plan to any of the Plaintiffs. O'Rourke could not possibly have defrauded them or misrepresented the Plan to them.

The Plaintiffs claims for constructive trust, unjust enrichment, and money had and received should be dismissed because O'Rourke has never received and has never held any funds belonging to any other Covered Employer or Plan participant, including any of the Plaintiffs.

Finally, the Plaintiffs' state law breach of fiduciary duty claim should be dismissed because it is preempted by ERISA.

For these reasons, O'Rourke requests the Court to grant this Motion for Summary Judgment and dismiss all claims asserted against him.

Date: June 30, 2011

Respectfully submitted,

/s/ Lawrence A.G. Johnson

Lawrence A.G. Johnson, Esq.

OBA # 4705

Law Offices of Lawrence A.G. Johnson

6450 South Lewis Ave., Ste. 103

Tulsa, Oklahoma 74136-1067

Telephone: (918) 743-0459

Facsimile: (918) 744-6686

tendalla@aol.com

Nelson Skyler

Texas Bar No. 00784982

nskyler@brownsims.com

Tarush R. Anand

Texas Bar No. 24055103

tanand@brownsims.com

1177 West Loop South, Tenth Floor

Houston, Texas 77027-9007

Telephone: (713) 629-1580

Facsimile: (713) 629-5027

***Attorneys for Timothy O'Rourke***

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this instrument was served on the following attorneys of record via the Court's CM/ECF system on June 30, 2011.

Regan Strickland Beatty on behalf of Defendant American General Life Insurance Company  
beattyr@crowedunlevy.com, donna.hinkle@crowedunlevy.com,  
kerryann.wagoner@crowedunlevy.com, ecf@crowedunlevy.com

Lawrence T Bowman on behalf of Defendant Senglaub Financial Group  
lbowman@cozen.com

Brandee L Bruening on behalf of Defendants American General Life Insurance Company and American United Life Insurance Company  
brandee.bruening@crowedunlevy.com, ecf@crowedunlevy.com;  
jody.moore@crowedunlevy.com

David A. Cheek on behalf of Defendant Senglaub Financial Group  
dcheek@cheekfalcone.com, bzerbe@cheekfalcone.com; cf@thefalcones.com

Timothy E. Headley on behalf of Defendant Senglaub Financial Group  
theadley@cozen.com

John B. Heatly on behalf of Defendant Penn Mutual Life Insurance Company  
jheatly@fellerssnider.com, sshahan@fellerssnider.com;  
mbellar@fellerssnider.com

Joseph A Friedman on behalf of Defendant Aviva Life and Annuity Company fka Indianapolis Life Insurance Company, an Iowa Insurance Corporation  
ecf@krcl.com, jfriedman@krcl.com

G. Rudy Hiersche on behalf of Defendant Ridge Insurance, Inc.  
rudy@hlfokc.com, robin@hlfokc.com

Gary Kessler on behalf of Defendant D-A Financial Services  
jw@kesslercollins.com

William H. Hoch on behalf of Defendant American General Life Insurance Company  
hochw@crowedunlevy.com, donna.hinkle@crowedunlevy.com;

kerryann.wagoner@crowedunlevy.com; ecf@crowedunlevy.com

R Keith Johnston on behalf of Defendant Indianapolis Life Insurance Company  
kjohnston@wbsvlaw.com, mvaughan@wbsvlaw.com; dskeens@wbsvlaw.com;  
jstenson@wbsvlaw.com; mwoods@wbsvlaw.com

John Justin Johnston on behalf of Defendant David Cline  
jjohnston@whmlaw.net, bwalters@whmlaw.net; juliebaswell@whmlaw.net

Fred A. Leibrock on behalf of Defendant Republic Bank & Trust  
faleibrock@phillipsmurrah.com,  
knogle@phillipsmurrah.com; ecf@phillipsmurrah.com

Foster Reese on behalf of Defendant Tony Fakouri  
freese@helmsgreene.com,  
agallaway@helmsgreene.com; jbreaud@helmsgreene.com

Bryon L. Romine on behalf of Defendant D-A Financial Services  
blr@kesslercollins.com

Erin K Lovall on behalf of Defendant Millennium Multiple Employer Welfare  
Benefit Plan  
elovall@fslhlaw.com,  
pfranklin@fslhlaw.com; dskierski@fslhlaw.com; mholmes@fslhlaw.com

John L. Malesovas on behalf of the Plaintiffs  
john@malesovas.com, marisela@malesovas.com

Anthony L. Vitullo on behalf of the Plaintiffs  
lvitullo@feesmith.com, wlyon@feesmith.com, mspurgeon@feesmith.com;  
lrichards@feesmith.com

Robert B Millner on behalf of Defendant American General Life Insurance  
Company  
robert.millner@snrdenton.com

G. Blaine Schwabe on behalf of Defendant Millennium Multiple Employer Welfare  
Benefit Plan  
gschwabe@mswerb.com, swilliams@mswerb.com

Jeffery K Work on behalf of Defendant Wilshire-Pennington Group, Inc.

jwork@gordonrees.com, lroberts@gordonrees.com;  
prodriguez@gordonrees.com

James R Wyrsh on behalf of Defendant David Cline  
jimwyrsh@whmlaw.net, bwalters@whmlaw.net, juliebaswell@whmlaw.net

Additionally, a true and correct copy of the foregoing pleading was sent to the following parties in this proceeding by first class mail.

Glenn Arons  
c/o La Toyia Pierce  
Henslee Schwartz, LLP  
6688 N. Central Expy.  
Suite 850  
Dallas, TX 75206

Lee E. Bains  
1901 Sixth Avenue North  
2400 Regions/Harbert Plaza  
Birmingham, AL 35203

Amy Boyea  
2000 East Lamar Blvd., Ste 600  
Arlington, TX 76006

Kathleen Barrow  
c/o Jackson Lewis, LLP  
1415 Louisiana Street  
Suite 3325  
Houston, TX 77396

Colin R. Batchelor  
1717 Main Street, Suite 5400  
Dallas, TX 75201

Tony Bonanno  
c/o LaToyia Watkins Pierce  
6688 N. Central Expressway, Ste 850  
Dallas, TX 75206

Robert Alan Bragalone  
2100 Ross Avenue  
Suite 2800  
Dallas, TX 75201

Craig Brinker  
6688 N Central Expressway  
Suite 850  
Dallas, TX 75206

Jennifer O'Hara Calvin  
6688 N. Central Expressway  
Suite 850  
Dallas, TX 75206

Karan Cummings Ciotti  
Ogden Gibson Broocks Longoria & Hall  
711 Louisiana St  
1900 Pennzoil South Tower  
Houston, TX 77002

David A Clark  
1300 Post Oak Blvd.  
Suite 2500  
Houston, TX 77056

Gary Lee Clark  
13415 Vista Bonita  
San Antonio, TX 78216

Jonathan Cocks  
3205 Walker Drive  
Richardson, TX 75082

Karen C. Corallo  
2000 McKinney Avenue, Ste 1900  
Dallas, TX 75201

Larry Cress  
c/o Dale Ossip Johnson  
The Johnson Firm

P.O. Box 427  
Cedar Park, TX 78630-0427

Joe Denson  
703 W. Sunflower Rd.  
Cleveland, MS 38732

Julia Ann Dobbins  
777 Main St.  
Suite 3800  
Fort Worth, TX 76102

Jeffrey Dubose  
702 Starcrest  
New Braunfels, TX 78130

Jeffrey Dubose  
593 Lakeview Boulevard  
New Braunfels, TX 78130

John Duvall  
1431 Bayshore Drive  
Kemah, Texas 77565

David Esman  
c/o Joe Sibley  
Camara & Sibley, LLP  
2339 University Blvd.  
Houston, TX 77005

Jay Kurtis Gray  
4514 Travis Sstreet, Ste 300  
Dallas, TX 75205

Timothy E. Headley  
1717 Main Street, Suite 2300  
Dallas, TX 75201

Heartland Financial Advisors Group  
1603 Crawford  
Parsons, KS 67357

Infinity Wealth Management  
27 W. 430 Warrenville Road  
Warrenville, IL 60555

Stephen C Jackson  
1901 Sixth Avenue North  
2400 Regions/Harbert Plaza  
Birmingham, AL 35203

Hunter Brandon Jones  
777 Main Street, Suite 3800  
Fort Worth, TX 76102

Larry E. Kelly  
5400 Bosque Blvd., Ste 301  
Waco, TX 76710

Gary Kessler  
2100 Ross Avenue, Suite 750  
Dallas, TX 75201

Thomas A Labuda  
233 S Wacker Drive  
Suite 7800  
Chicago, IL 60606

Edward Eugene Leisher  
6500 Rock Springs Dr., Suite 450  
Bethesda, MD 20817

Christopher Lubbers  
1603 Crawford  
Parson, KS 67357

Glenn Russell LeMay  
1900 West Loop South  
Suite 1000  
Houston, TX 77027

Michael P. Massad



1201 Elm Street  
Suite 5400  
Dallas, TX 75270

David McDowell  
3200 Southwest Freeway, Suite 2920  
Houston, TX 77027

R. Timothy Muth  
1000 North Water Street  
Suite 1700  
Milwaukee, WI 53202

Medalist LLC  
c/o David R. Woodward  
Cobb Martinez Woodward, PLLC  
1700 Pacific Avenue  
Suite 4545  
Dallas, TX 75201

Medalist Marketing Group, LLC  
c/o David R. Woodward  
Cobb Martinez Woodward, PLLC  
1700 Pacific Avenue  
Suite 4545  
Dallas, TX 75201

Timothy Moore  
2603 Augusta Drive  
Suite 1100  
Houston, TX 77057

Alison H. Moore  
Thompson Coe Cousins & Irons, LLP  
700 N. Pearl Street, 25th Floor  
Dallas, TX 75202

R. Timothy Muth  
1000 North Water Street  
Suite 1700  
Milwaukee, WI 53202

One Source Financial Services  
5800 Padre Blvd., Suite 210  
South Padre Island, TX 78597

James Palumbo  
5800 Padre Blvd., Suite 210  
South Padre Island, TX 78597

Kathleen Peer  
15 Church Street  
Stuyvesant, NY 12173

Shawn W. Phelan  
700 N. Pearl, 25th Floor  
Dallas, TX 75201

LaToyia Watkins Pierce  
6688 N. Central Expressway, Ste 850  
Dallas, TX 75206

Matthew G. Pletcher  
1300 Post Oak Boulevard, Ste 2500  
Houston, TX 77056

LaToyia Watkins Pierce  
6688 N. Central Expressway, Ste 850  
Dallas, TX 75206

Matthew G. Pletcher  
1300 Post Oak Boulevard, Ste 2500  
Houston, TX 77056

Private Consulting Group, Inc.  
c/o Thomas G. Nicholson  
Finneran & Nicholson, PC  
30 Green Street  
Newburyport, MA 01950

Jo Christine Reed  
1221 Avenue of the Americas

New York, NY 10020

Foster Reese  
1700 Pacific, Ste 1000  
Dallas, TX 75201

Bryon L. Romine  
2100 Ross Avenue, Suite 750  
Dallas, TX 75201

Ben Sartin  
9100 IH-10 West, Suite 205  
San Antonio, TX 78230

SecurePlan Administrators, LLC  
c/o Fred A. Leibrock  
Phillips Murrah, PC  
101 N. Robinson  
Oklahoma City, OK 73102

David M Skeens  
Walters Bender Strohbehn & Vaughan  
1100 Main Street  
Suite 2500 City Center Square  
PO Box 26188  
Kansas City, MO 64196

Doug Skierski  
10501 N Central Expressway  
Suite 106  
Dallas, TX 75231

John Straley  
33 W. Higgins Road, Suite 5000  
South Barrington, IL 60010

Mark Strefner  
33 W. Higgins Road, Suite 5000  
South Barrington, IL 60010

Greg Smith

c/o Gary S. Kessler  
2100 Ross Avenue  
Suite 750  
Dallas, TX 75201

Smith Financial Group LLC  
c/o Gary S. Kessler  
2100 Ross Avenue, Suite 750  
Dallas, TX 75201

TR Moore & Company, PC  
2603 Augusta Drive  
Suite 1100  
Houston, TX 77057

Donald Jay Trudeau  
2187 Atlantic Street  
Stamford, CT 06902

Michael Ward  
2680 Bishop Drive, Suite 204  
San Ramon, CA 94583

The Wellington Group LLC  
c/o LaToyia Watkins Pierce  
6688 N. Central Expressway, Ste 850  
Dallas, TX 75206

James Michael Vaughan  
1100 Main Street  
Suite 2500 City Center Square  
Kansas City, MO 64105

Raymond Wicker  
10011 W. Gulf Bank, Suite A  
Houston, TX 77040

/s/ Larry A.G. Johnson  
Larry A.G. Johnson